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CAESAR, RIVISE, BERNSTEIN, COHEN & POKOTILOW, LTD. 12th Floor - 7 Penn Center 1635 Market Street Philadelphia, PA 19103-2212			ZHOU, TING	
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			2173	
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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/723,505	GARDNER ET AL.	
	<b>Examiner</b> Ting Zhou	<b>Art Unit</b> 2173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

#### A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 November 2004.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5 and 7-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 and 7-34 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

1. The response filed on 1 November 2004 have been received and entered. Claims 1-5 and 7-34 are pending in the application.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 7-15, 19-21, and 25-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbert et al. (hereinafter Gilbert) U.S. Patent No. 6,370,537 and Wei U.S. Patent No. 6,654,784.

Referring to claim 1, Gilbert discloses a method for delivering information to a person accessing a banner website from a terminal located remote from a source of the banner website, the terminal having an associated display upon which a content of the website is visually perceived by a person using the terminal and a cursor whose position is controllable by the person. See col. 17, lines 12-30, which describe how the banner is determined by an ad server, which is remote from the user's terminal. Fig. 26 shows a website, whose content is visually perceived by the user, with banner 2600. Col. 17, lines 44-47 describes how the user may move the mouse, which controls the position of a cursor.

a) The method of Gilbert provides initial signals from the source of the website or from another remote source when the website is accessed by the person to establish a banner area on the display (col. 17, lines 12-21), the banner area having banner boundaries (Fig. 26) and including banner advertising information that is visually perceptible by the person when the website is accessed and plural sub-areas of the banner area. See Fig. 26, banner 2600, which shows three sub-areas (frames). Also, see col. 17, lines 40-44, which describe how the banner may be split into frames.

b) The method of Gilbert enables the person to control the cursor to position the cursor on any one of the sub-areas of the banner area to provide a selected sub-area, whereupon the person is automatically provided with respective additional visually perceptible advertising message information associated with the selected sub-area, the additional visually perceptible advertising message information being provided without requiring other action by the person, by displaying the additional visually perceptible advertising message information being displayed in a selected region of the display. See col. 17, lines 44-53, which describes how a mouse over an image in one of the frames causes a pop-up window (visually perceptible) to be displayed in a specific region of the display, the pop-up window provides additional advertising message information associated with the selected sub-area (frame).

c) The method of Gilbert enables the person to control the cursor to position the cursor on the selected region (through the use of the mouse).

d) The respective additional visually perceptible advertising message information of Gilbert is imperceptible by the person until the cursor is located on the selected sub-area. See col. 17, lines 44-53, which describes how a mouse over an image in one of the frames causes a

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pop-up window (visually perceivable) to be displayed, which provides additional information associated with the selected sub-area (frame). The pop-up window does not have a button in the window for closing the window ('x'), and therefore is believed to remain perceivable to the person as long as the cursor remains on the selected sub-area (frame) or on the pop-up window. It is typical for a mouse over event to last as long as the mouse (cursor) remains positioned over the image associated with the mouse over (i.e. until a MouseOut event occurs). The Examiner takes Official Notice of this teaching. It would have been obvious to one of ordinary skill in the art to ensure the pop-up window of Gilbert remains open as long as the cursor remains on the selected sub-area (frame) or the pop-up window (region), because the lack of movement of the cursor indicates the user is still reading the additional information.

The instructions for controlling the display of Gilbert (i.e. the banner area with pop-up windows) are provided through Java Applets (col. 17, lines 12-30). The instructions are essentially compiled code, and compiled code may be achieved through a vast array of programming environments, including, Java Applets, XML and JavaScript, for example. Therefore, Gilbert implies, but does not explicitly teach that JavaScript may be used to provide the instructions in steps a) and b) above. However, Wei explicitly teaches that Java Applets require starting the Java Virtual Machine and take extra time to download (col. 3, lines 29-39 and col. 4, lines 14-25). Wei describes how JavaScript may replace Java Applets to increase performance and reduce the user's wait time (col. 4, lines 30-54). It would have been obvious to one of ordinary skill in the art to modify the advertising method of Gilbert, such that the instructions for controlling the display to provide banner advertisements and additional

advertisement information are written with JavaScript instead of Java Applets in order to increase performance and reduce wait time as suggested by Wei.

Referring to claim 2, Gilbert shows a pop-up window associated with banner 2600 in Fig. 26, which substantially crosses the lower boundary of the banner area, but Gilbert does not explicitly show the selected region where the pop-up window (visually perceivable advertising message information) is displayed is disposed substantially outside the boundaries of the banner area. However, pop-up windows may be placed anywhere within a display and may comprise different sizes. As an example, see Fig. 18 or Gilbert, which shows a pop-up window (1802), disposed substantially outside of the boundaries of banner area (1801). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the pop-up window of Gilbert in a selected region disposed substantially outside of the boundaries of the banner area, in order to prevent covering up the banner, and reducing its visibility or to enlarge the pop-up window to draw attention to it.

Referring to claims 7-8, the initial signals of Gilbert carry the instructions necessary for enabling the terminal to establish the additional visually perceivable advertising message information (pop-up) when in receipt of appropriate data and when the instructions operate upon the appropriate data, and the method of Gilbert re-accesses the source of the website or accesses another source for receiving the appropriate data upon which the instructions operate to provide the additional visually perceivable information. See col. 17, lines 25-31 and 50-54.

Referring to claim 9, the pop-up window of Gilbert (additional visually perceivable information) is displayed in a selected region (window) of the display adjacent to the selected sub-area (frame). See the pop-up window over (adjacent) the banner 2600 in Fig. 26.

Referring to claim 10, the additional visually perceptible advertising message information of Gilbert contains link information for linking the person to a further website when the person clicks on the selected région. See col. 17, lines 48-64.

Referring to claims 11-12, the method of Gilbert receives the visually perceptible banner advertising message information, first identification data representative of the visually perceptible banner advertising message information, the additional visually perceptible advertising message information, and second identification data representative of additional visually perceptible advertising message information. See col. 17, lines 25-31 and 50-54, which describes how the banner information and additional advertising message information are served from an ad server, and therefore must be received by the terminal. The method of Gilbert specifies a placement of the additional visually perceptible advertising message information with respect to the visually perceptible banner advertising message information according to the first and second identification data. See Fig. 26, which shows the pop-up window (additional information) in relation to the banner.

Referring to claim 13, the method of Gilbert must build a use map in accordance with the first and second identification data to associate the appropriate pop-up window with the appropriate image (sub-area) in the banner. See col. 17, lines 44-47. Also, see col. 12, lines 20-28.

Referring to claim 14, Gilbert discloses the step of providing additional visually perceptible advertising message information comprises the steps of:

- a) building a pop-up function in accordance with the additional visually perceptible advertising message information (col. 17, lines 44-47);

b) adding HTML information to the pop-up function to provide an enhanced pop-up function (col. 17, lines 47-50 and col. 12, lines 26-28); and

c) displaying the visually perceivable banner advertising message information and the additional perceivable advertising message information in accordance with the enhanced pop-up function. See col. 17, lines 40-50 and the pop-up associated with banner 2600 in Fig. 26.

Referring to claim 15, Gilbert discloses the step of altering associations between the sub-areas (frames) and the respective additional visually perceivable advertising message information and repeating step (b). See col. 17, lines 17-31 and 50-54, which describes how the content of the pop-up (additional visually perceivable information) and banner are determined by the ad server and may be changed by the advertiser.

Referring to claim 19, Gilbert discloses transmitting a request having request information to a server database (ad server) on a further website containing stored visual information in response to the positioning of the cursor on the selected sub-area (frame), selecting the additional visually perceivable advertising message information (pop-up window) from the stored visual information in response to the request information, and transmitting the visually perceivable advertising message information selected from the stored visual information to the banner website. See col. 17, lines 44-54.

Referring to claim 20, the terminal of Gilbert provides a terminal display having a display iframe comprising the steps of displaying the additional visually perceivable banner advertising message information within the display iframe and displaying the additional visually perceivable advertising message information in response to positioning the cursor on the iframe. See col. 17, lines 12-47 and Fig. 26.

Referring to claim 21, Gilbert discloses a system for delivering information to a person accessing a banner website from a terminal located remote from the source of the banner website, the terminal having an associated display upon which the content of the website is visually perceived by a person using the terminal and a cursor whose position is controllable by the person. See col. 17, lines 12-30, which describe how the banner is determined by an ad server, which is remote from the user's terminal. Fig. 26 shows a website, whose content is visually perceived by the user, with banner 2600. Col. 17, lines 44-47 describes how the user may move the mouse, which controls the position of a cursor.

The system of Gilbert provides initial signals from the source of the website or from another remote source when the website is accessed by the person to establish a banner area on the display (col. 17, lines 12-21), the banner area including banner advertising message information that is visually perceivable by the person when the website is accessed and plural sub-areas of the banner area. See Fig. 26, banner 2600, which shows three sub-areas (frames). Also, see col. 17, lines 40-44, which describe how the banner may be split into frames.

The initial signals of Gilbert enable the person to control the cursor to position the cursor on any one of the sub-areas of the banner area to provide a selected sub-area, whereupon the person is automatically provided with respective additional visually perceptible advertising message information associated with the selected sub-area, the additional visually perceptible advertising message information being provided without requiring other action by the person, the respective additional visually perceptible information being imperceptible by the person until the cursor is located on the selected sub-area. See col. 17, lines 44-53, which describes how a

mouse over an image in one of the frames causes a pop-up window (visually perceivable) to be displayed, which provide additional information associated with the selected sub-area (frame).

Gilbert shows a pop-up window associated with banner 2600 in Fig. 26, which substantially crosses the lower boundary of the banner area, but Gilbert does not explicitly show the pop-up window (visually perceivable information) is provided substantially outside the boundaries of the banner area. However, pop-up windows may be placed anywhere within a display and may comprise different sizes. As an example, see Fig. 18 or Gilbert, which shows a pop-up window (1802), substantially outside of the boundaries of banner area (1801). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the pop-up window of Gilbert substantially outside of the boundaries of the banner area, in order to prevent covering up the banner, and reducing its visibility or to enlarge the pop-up window to draw attention to it.

The instructions for controlling the display of Gilbert (i.e. the banner area with pop-up windows) are provided through Java Applets (col. 17, lines 12-30). The instructions are essentially compiled code, and compiled code may be achieved through a vast array of programming environments, including, Java Applets, XML and JavaScript, for example. Therefore, Gilbert implies, but does not explicitly teach that JavaScript may be used to provide the instructions in the method above. However, Wei explicitly teaches that Java Applets require starting the Java Virtual Machine and take extra time to download (col. 3, lines 29-39 and col. 4, lines 14-25). Wei describes how JavaScript may replace Java Applets to increase performance and reduce the user's wait time (col. 4, lines 30-54). It would have been obvious to one of ordinary skill in the art to modify the advertising method of Gilbert, such that the instructions for

controlling the display to provide banner advertisements and additional advertisement information are written with JavaScript instead of Java Applets in order to increase performance and reduce wait time as suggested by Wei.

Referring to claim 25 the pop-up window of Gilbert (additional visually perceivable advertising message information) is displayed in a region (window) adjacent to the selected sub-area (frame). See the pop-up window over (adjacent) the banner 2600 in Fig. 26. The pop-up window does not have a button in the window for closing the window ('x'), and therefore is believed to remain perceivable to the person as long as the cursor remains on the selected sub-area (frame) or on the pop-up window. It is typical for a mouse over event to last as long as the mouse (cursor) remains positioned over the image associated with the mouse over (i.e. until a MouseOut event occurs). The Examiner takes Official Notice of this teaching. It would have been obvious to one of ordinary skill in the art to ensure the pop-up window of Gilbert remains open as long as the cursor remains on the selected sub-area (frame) or the pop-up window (region), because the lack of movement of the cursor indicates the user is still reading the additional information.

Referring to claims 26-27, the initial signals of Gilbert carry the instructions necessary for enabling the terminal to establish the additional visually perceivable advertising message information (pop-up) when in receipt of signals transmitted from a further website in response to the instructions, and the initial signals of Gilbert require re-accessing the further website for selecting the transmitted signals. See col. 17, lines 25-31 and 50-54.

Referring to claim 28, Gilbert discloses a method of enabling a user on a website to traverse a banner presented on the website using an indicator (mouse cursor) to display an image

(pop-up) in response to the traversing of the banner. The method of Gilbert provides the banner with a first hot spot with an associated image of advertising message information (col. 17, lines 45-47), activates the first hot spot when the indicator (mouse) traverses the first hot spot and enables the associated image (pop-up) of the first hot spot when the first hot spot is activated to provide an enabled image (see col. 17, lines 44-47 on how a pop-up is displayed in response to a mouse over). See the pop-up window over (adjacent) the banner 2600 in Fig. 26. The pop-up window does not have a button in the window for closing the window ('x'), and therefore is believed to remain enabled as long as the indicator (mouse) is disposed on the pop-up (enabled image), and the pop-up is removed when the mouse is moved off of it. It is typical for a mouse over event to last as long as the mouse (cursor) remains positioned over the image associated with the mouse over (i.e. until a MouseOut event occurs). The Examiner takes Official Notice of this teaching. It would have been obvious to one of ordinary skill in the art to ensure the pop-up window of Gilbert remains open as long as the cursor remains over the enabled image (pop-up), because the lack of movement of the cursor indicates the user is still reading the additional information.

The instructions for controlling the display of Gilbert (i.e. the banner area with pop-up windows) are provided through Java Applets (col. 17, lines 12-30). The instructions are essentially compiled code, and compiled code may be achieved through a vast array of programming environments, including, Java Applets, XML and JavaScript, for example. Therefore, Gilbert implies, but does not explicitly teach that JavaScript may be used to provide the instructions in the method above. However, Wei explicitly teaches that Java Applets require starting the Java Virtual Machine and take extra time to download (col. 3, lines 29-39 and col. 4,

lines 14-25). Wei describes how JavaScript may replace Java Applets to increase performance and reduce the user's wait time (col. 4, lines 30-54). It would have been obvious to one of ordinary skill in the art to modify the advertising method of Gilbert, such that the instructions for controlling the display to provide banner advertisements, and enable and remove images associated with hot spots in the banner are written with JavaScript instead of Java Applets in order to increase performance and reduce wait time as suggested by Wei.

Referring to claim 29, in the method of Gilbert, a further website is associated with the associated image (pop-up) and further comprises the step of clicking on the enabled image and transporting the user to the further website in response to the clicking. See col. 17, lines 48-64.

Referring to claim 30, the banner in Gilbert is provided with a second hot spot having a further image associated therewith and comprises the further step of traversing the second hot spot by the indicator (mouse) within the banner and enabling the further associated image (pop-up) in response thereto. See col. 17, lines 40-47, which describe how the banner may be divided into frames, each having an associated pop-up on a mouse over.

Referring to claim 31, the indicator of Gilbert is directed by a mouse, having a right mouse button and a left mouse button, and the user traverses the first hot spot without clicking on the right or left buttons of the mouse. See col. 17, lines 44-47, which describe how a mouse over causes the pop-up to be displayed (activates the hot spot).

Referring to claim 32, Gilbert discloses the step of altering associations between the first and second hot spots (frames) and the associated images and enabling the further associated image when the first hot spot is traversed. See col. 17, lines 17-31 and 50-54, which describes

how the content of the pop-up (additional visually perceptible information) and banner are determined by the ad server and may be changed by the advertiser.

Referring to claim 33, the selected region (pop-up placement) of Gilbert is disposed partially over the selected sub-area. See Fig. 26, 2600, which shows the pop-up is partially over the middle frame (selected sub-area).

Referring to claim 34, Gilbert shows a selected region disposed outside the selected sub-area for displaying additional visually perceptible advertising message information. See Fig. 26, 2606, which provides information about the selected product in the selected region of the banner in frame outside of the selected sub-area.

3. Claims 3-5 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbert and Wei, as applied to claims 1 and 21 above, and Dustin et al. (hereinafter Dustin) U.S. Patent No. 6,496,857.

Referring to claims 3-5 and 22-24, Gilbert discloses additional visually perceptible advertising message information in the form of a pop-up window, but Gilbert and Wei do not explicitly describe that the pop-up window contains audio information, video information, or mixed media information. However, Dustin describes a method for enhancing advertisements, which provides ads that contain audio, video, and/or mixed media information. See col. 3, lines 5-8. It would have been obvious to one of ordinary skill in the art at the time of the invention to enhance the additional visually perceptible advertising message information (pop-up window advertisements) of Gilbert and Wei, such that they include audio, video, and/or mixed media information for a more affective form of advertisement as supported by Dustin.

4. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbert and Wei, as applied to claim 1 above, and Mason et al. (hereinafter Mason) U.S. Patent No. 6,401,075.

Referring to claims 16-18, Gilbert discloses that the advertisements may be customized according to a user profile or at the discretion of the advertiser (col. 17, lines 21-31), but Gilbert does not explicitly alter the associations between the sub-areas and the additional visually perceptible advertising message information in accordance with recorded performance parameters. However, Mason discloses methods of monitoring internet advertising, in which parameters (which are predetermined) representative of the advertisements (i.e. click-through) are recorded to provide recorded performance parameters, and the advertisements presented are altered in accordance with the recorded performance parameters. See col. 2, lines 39-51. Altering the advertisements in accordance with the recorded performance parameters is repeated to provide the advertiser with accurate results of the success of the advertisements. It would have been obvious to one of ordinary skill in the art to modify the associations between the frames of the banner (sub-areas) and the pop-up window (additional visually perceptible advertising message information) of Gilbert in accordance with recorded performance parameters as taught by Mason in order to provide the advertiser with information on the success of the advertisements in the pop-up window and alter the pop-up window and banner accordingly as supported by Mason.

*Response to Arguments*

5. Applicant's arguments filed 1 November 2004 have been fully considered but they are not persuasive.

6. The applicant argues that the official notice taken of the "Legend and Color Web Page" (the "Web Page" hereinafter), is improper because the required teaching, suggestion, or motivation to combine the Web Page with Gilbert or Wei is not present. The examiner respectfully disagrees. In response to the applicant's arguments that the examiner's use of the Web Page effectively amounts to combining a third reference to produce the applicant's claim invention since Gilbert and Wei do not teach or suggest the features that the examiner sets forth as taught by the Web Page, the examiner respectfully wishes to clarify that the examiner's citation of the Web Page in the Response to Arguments section of the non-final office action mailed on 28 July 2004, was not intended to add the Web Page as a third reference to be combined with the Gilbert and Wei references, nor was it specifically intended to be directed to the interface teachings of the applicant's invention, but instead was presented as evidence of a teaching that is well known to one of ordinary skill in the computer arts. Suggestion or motivation for the official notice teaching can be found in that it would have been obvious one of ordinary skill in the art to ensure the pop-up window of Gilbert remains open as long as the cursor remains on the selected sub-area or pop-up window because lack of movement of the cursor indicates the user's continuing interest in reading, or viewing the displayed information and therefore, users can continue to view the information of interest without having to perform further user interface actions.

7. The applicant argues that the Web Page does not address the problem solved by the applicant since the Web page merely teaches an image popping up in a conventional amount of time and does not address the problem of popping the image up immediately, which is the problem solved by the applicant. The examiner respectfully contend that the problem solved by the applicant is concerned with the intended use of the applicant's invention and is not given patentable weight; the examiner further wishes to note that the problem of popping the image up immediately, as argued by the applicant as lacking in the Web Page, is not a claimed step of the present invention. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

8. The Federal Rules of Evidence relating to the use of judicial notice are set forth in Fed.R.Evid Section. 201. Section 201 sets forth that judicial notice of facts is permitted when they are either "(1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." The applicants believe that the matter, which the examiner takes official notice of, is not "generally known" or "capable of accurate and ready determination". The examiner respectfully disagrees. Allowing a mouse over event to last as long as the mouse (cursor) remains positioned over the image associated with the mouse over event is a well-known feature of a graphical user interface to one of ordinary skill in the computer arts. The determination of this general knowledge was accurately and readily evidenced by the Web Page cited by the examiner in the Response to Arguments section of the non-final office action mailed

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on 28 July 2004, which teaches the display of a pop up image (image A) when the mouse pointer is placed over the image and the disappearance of the image when the mouse pointer is out of the particular image; therefore, image A remains visually perceivable to the person as long as the cursor remains on the image area, in other words, until a mouse out even occurs.

9. The applicant argues that neither Dustin nor Mason teach the use of JavaScript to perform the operations of their inventions. However, the examiner respectfully notes that the teaching of the use of JavaScript is taught by Wei. Wei teaches the use of JavaScript powered web pages to deliver a rich featured GUI in order to increase performance and reduce a user's wait time, as recited in column 4, lines 30-54. Furthermore, the applicant argues that Mason does not teach the automatic provision of additional visually perceivable information corresponding to a selected sub-area when a user positions the cursor on a sub-area. The examiner respectfully note that the teaching of the provision of additionally visually perceivable information corresponding to a selected sub-area when the user positions the cursor on the sub-area is taught by Gilbert in column 17, lines 11-64. Gilbert teaches that when a mouse is placed over an item represented by a displayed frame of a plurality of frames, a visually perceivable pop-up window is displayed, providing additional information associated with the selected item.

10. The applicant argues that none of the references cited by the examiner teaches or suggests the use of JavaScript to perform the operations set forth in the applicant's amended claims 1, 21 and 28. The examiner respectfully disagrees. Gilbert implies, but does not explicitly teach that JavaScript may be used to provide the instructions for controlling the displayed banner area with

pop-up windows by teaching the provision of the instructions for controlling the display through Java applets (column 17, lines 12-30), which is a programming environment for achieving compiled code, or instructions. Compiled code, or instructions can be carried out via a number of programming environments, including, but not limited Java Applets. Since JavaScript is also a programming environment that can carry out compiled code, or instructions, Gilbert implies that JavaScript may be used to provide instructions for controlling the display. Wei explicitly teaches that Java Applets require starting the Java Virtual Machine and take extra time to download (col. 3, lines 29-39 and col. 4, lines 14-25). Wei describes how JavaScript may replace Java Applets to increase performance and reduce the user's wait time (col. 4, lines 30-54). It would have been obvious to one of ordinary skill in the art to modify the advertising method of Gilbert, such that the instructions for controlling the display to provide banner advertisements and additional advertisement information are written with JavaScript instead of Java Applets in order to increase performance and reduce wait time as suggested by Wei.

11. In response to applicant's argument that Wei is not suitable for a system that provides advertising message information, such as the system taught by Gilbert, due to the larger size of applications in Wei, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both Gilbert and Wei are directed at providing web page information through the use of Java based programming. Furthermore, Java Applets are described as one embodiment in Gilbert for

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providing the compiled code, and compiled code may clearly be provided through all kinds of programming environments. Therefore, while the method of Gilbert gives the example of Java Applets, one of ordinary skill in the art readily recognizes that other programming environments may be used to provide the instructions, especially other Java constructs (i.e. JavaScript, JSP, etc.) primarily used in the web programming field of the banner advertising method of Gilbert. The fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art (i.e. interchanging Java Applets and JavaScript) cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

**12. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Conclusion***

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ting Zhou whose telephone number is (571) 272-4058. The examiner can normally be reached on Monday - Friday 8:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached at (571) 272-4048. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-4058.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TZ



RAYMOND J. BAYERL  
PRIMARY EXAMINER  
ART UNIT 2173